

Senate Study Bill 1200

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
INSPECTIONS AND APPEALS
BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to health care facility violations and penalties
2 for such violations.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1248DP 81
5 pf/cf/24

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1 1 Section 1. Section 135C.10, Code 2005, is amended by
1 2 adding the following new subsection:
1 3 NEW SUBSECTION. 11. For health care facilities certified
1 4 for participation in either the medical assistance or Medicare
1 5 program, inability or failure to operate and conduct the
1 6 health care facility in accordance with the conditions for
1 7 participation in the medical assistance or Medicare program.
1 8 Sec. 2. Section 135C.36, Code 2005, is amended to read as
1 9 follows:
1 10 135C.36 VIOLATIONS CLASSIFIED == PENALTIES.
1 11 Every violation by a health care facility of any provision
1 12 of this chapter or of the rules adopted pursuant to it shall
1 13 be classified by the department in accordance with this
1 14 section. The department shall adopt and may from time to time
~~1 15 modify, in accordance with chapter 17A rules setting forth so~~
~~1 16 far as feasible the specific violations included in each~~
~~1 17 classification and stating criteria for the classification of~~
~~1 18 any violation not so listed. All violations shall be~~
1 19 classified as a Class I, Class II, or Class III violation, and
1 20 may be classified as more than one class of violation. The
1 21 applicable class of violation shall be determined by the
1 22 department based on the nature and severity of the violation
1 23 and shall be based upon the descriptions for Class I, Class
1 24 II, and Class III violations in this section.
1 25 1. A Class I violation is one which presents an imminent
1 26 danger or a substantial probability of resultant death or
1 27 physical harm to the residents of the facility in which the
1 28 violation occurs. A physical condition or one or more
1 29 practices in a facility may constitute a Class I violation. A
1 30 Class I violation shall be abated or eliminated immediately
1 31 unless the department determines that a stated period of time,
1 32 specified in the citation issued under section 135C.40, is
1 33 required to correct the violation. A licensee is subject to a
1 34 penalty of not less than ~~two one~~ thousand nor more than ten
1 35 thousand dollars for each Class I violation for which the
2 1 licensee's facility is cited.
2 2 2. A Class II violation is one which has a direct or
2 3 immediate relationship to the health, safety or security of
2 4 residents of a health care facility, but which presents no
2 5 imminent danger nor substantial probability of death or
2 6 physical harm to them. A physical condition or one or more
2 7 practices within a facility, including either physical abuse
2 8 of any resident or failure to treat any resident with
2 9 consideration, respect and full recognition of the resident's
2 10 dignity and individuality, in violation of a specific rule
2 11 adopted by the department, may constitute a Class II
2 12 violation. A violation of section 135C.14, subsection 8, or
2 13 section 135C.31 and rules adopted under those sections shall
2 14 be at least a Class II violation and may be a Class I
2 15 violation. A Class II violation shall be corrected within a
2 16 stated period of time determined by the department and

2 17 specified in the citation issued under section 135C.40. The
2 18 stated period of time specified in the citation may
2 19 subsequently be modified by the department for good cause
2 20 shown. A licensee is subject to a penalty of not less than
2 21 ~~one two~~ hundred fifty nor more than ~~five nine~~ hundred ninety=
2 22 nine dollars for each Class II violation for which the
2 23 licensee's facility is cited, however the director may waive
2 24 the penalty if the violation is corrected within the time
2 25 specified in the citation.

2 26 3. A Class III violation is any violation of this chapter
2 27 or of the rules adopted pursuant to it which violation is not
2 28 ~~classified in the department's rules nor classifiable under~~
2 29 ~~the criteria stated in those the department's rules as a Class~~
2 30 ~~I or a Class II violation. A licensee shall not be subject to~~
2 31 ~~a penalty for a Class III violation, except as provided by~~
2 32 ~~section 135C.40, subsection 1 for failure to correct the~~
2 33 ~~violation within a reasonable time specified by the department~~
2 34 ~~in the notice of the violation. A Class III violation shall~~
2 35 ~~be corrected within a stated period of time determined by the~~
3 1 ~~department and specified in the citation issued under section~~
3 2 ~~135C.40. A licensee is subject to a penalty of not less than~~
3 3 ~~fifty nor more than two hundred forty-nine dollars for each~~
3 4 ~~cited Class III violation which the licensee fails to correct~~
3 5 ~~in the time specified by the department.~~

3 6 Sec. 3. Section 135C.44, Code 2005, is amended to read as
3 7 follows:

3 8 135C.44 TREBLE FINES FOR REPEATED VIOLATIONS.

3 9 The penalties authorized by section 135C.36 shall be
3 10 trebled for a second or subsequent Class I, ~~or Class II, or~~
3 11 ~~uncorrected Class III~~ violation occurring within any twelve=
3 12 month period if a citation was issued for the same Class I, ~~or~~
3 13 ~~Class II, or Class III~~ violation occurring within that period
3 14 and a penalty was assessed ~~therefor for the violation.~~

3 15 EXPLANATION

3 16 This bill relates to the classification and penalties for
3 17 health care facility violations.

3 18 The bill adds to the criteria authorizing the department of
3 19 inspections and appeals to deny, suspend, or revoke the
3 20 license of a health care facility, the facility's inability or
3 21 failure to operate and conduct the facility in accordance with
3 22 the conditions for participation in the medical assistance or
3 23 Medicare program, if the facility is certified for
3 24 participation in either of the programs.

3 25 The bill provides that all violations by a health care
3 26 facility are to be classified as a Class I, Class II, or Class
3 27 III violation and that the applicable classification is to be
3 28 determined by the department based on the nature and severity
3 29 of the violation and upon the descriptions of the violations
3 30 in Code section 135C.36.

3 31 The bill changes the amounts of the penalties for a Class I
3 32 violation from a minimum of \$2,000 and a maximum of \$10,000 to
3 33 a minimum of \$1,000 and a maximum of \$10,000; for a Class II
3 34 violation from a minimum of \$100 and a maximum of \$500 to a
3 35 minimum of \$250 and a maximum of \$999; and for a Class III
4 1 violation from no monetary penalty, to a minimum of \$50 and a
4 2 maximum of \$249 if the violation is not corrected in the time
4 3 frame specified in the citation.

4 4 The bill also includes in the existing provisions for the
4 5 trebling of fines, certain uncorrected Class III violations.

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